

REMARKS

All pending claims stand rejected under 35 U.S.C. § 103(a) as being unpatentable over various combination of U.S. patents of Heddaya, Smith, Ganguly, Eichstaedt, Reiche, Lapstun, Birnbaum, and Genty. Applicant respectfully submits that all the above cited references do not teach or suggest all the limitations of the rejected claims.

I. The cited passages of Ganguly do not cure the deficiencies of Heddaya and Smith.

The Office Action acknowledges that Heddaya and Smith fail to disclose the claimed limitation of “wherein the act of prefabricating the first page comprises querying a database to obtain cached data, processing the data received from the database, and packaging information associated with the data in a prescribed format” but cites to **col. 7, lines 27–55** of Ganguly and concludes that the cited lines disclose the aforementioned claimed limitations. Applicants agree that Heddaya and Smith do not disclose the above limitations, but Applicants respectfully disagree that Ganguly discloses the claimed limitations.

The cited lines of Ganguly does not teach or suggest “wherein the act of prefabricating the first page comprises querying a database to obtain cached data, processing the data received from the database, and packaging information associated with the data in a prescribed format.” **Col. 7, lines 27 – 55** of Ganguly is silent with respect to at least the feature of, “wherein the act of prefabricating the first page comprises querying... processing... and packaging... as claimed. Ganguly does not disclose or suggest any prefabrication as claimed.

The cited lines **Col. 7, lines 27 – 55** states:

FIG. 3 is a functional diagram of the predicate proxy core 300 including a connection manager 302, a protocol handler 304, a cache manager 306, a query engine 308, and predicate logic 310. The connection manager 302 is responsible for maintaining proxy connections to the clients, as well as to the directory servers. Since LDAP/NDAP are connection-oriented protocols, the connection manager may function in accordance with a connection-oriented service, such as TCP. The protocol handler deals with LDAP/NDAP specific marshalling and un-marshalling of arguments to/from the network.

The cache manager 306 is responsible for management of the proxy cache, including managing cache entries. To that end, the cache manager interacts with

the predicate logic, the query engine and the persistence subsystem to provide high-level "intelligence" when managing the cache entries. The query engine is responsible for computing total or partial results based on a cache entry and, thus, is generally similar to a search engine of a conventional LDAP/NDAP server. The predicate logic is the core of the directory proxy which implements the dynamic caching technique by computing whether a subsequent query can be subsumed by the current cached results. Unlike a traditional caching system, the dynamic caching technique does not provide a unique one-to-one mapping between a query predicate and a result set.

Therefore, Ganguly discloses a predicate proxy core, but does not teach or suggest "wherein the act of prefabricating the first page comprises querying... processing... and packaging..." Specifically, to the extent that any of the above features of Ganguly is considered packaging info, Applicants note that such alleged packaging is not performed to prefabricate a page (i.e., note that claims recite that the act of packaging is part of the act of prefabricating the page.) As such, Ganguly does not disclose the above limitations, and fails to cure the deficiencies of Heddaya and Smith.

Moreover, claim 1 recites "dynamically fabricating a second page if the information request corresponds to the second page." The Office Action states this feature is allegedly shown by column 7, lines 42-45 of Heddaya. Those lines disclose "If, however, a cache copy is not encountered at the particular cache server 16-6, the request message continues to the next router 14-4 on the path to the home server 20." Those lines do not disclose or suggest dynamically fabricating a second page. It merely states the next router is used to request a cache copy. Requesting a cache copy from the next router is not the same as dynamically fabricating as claimed because cached copy will not require any dynamic fabricating. Thus, Heddaya also does not disclose or suggest this feature.

Claims 49, 58, and 63 disclose similar limitations as does claim 1. Claims 23, 70-71, and 73-74 represent the system and computer program product claims implementing the above method claims and thus are believed to be allowable over the cited references for at least the foregoing reasons. As such, Applicants respectfully submit that claims 1, 23, 49, 58, 70-71, 73-74, and their respective dependent claims are believed to be allowable over the cited references.

II. Eichstaedt, Reiche, Lapstun, Birnbaum, Genty and Breslau do not teach, or suggest the claimed limitations that both Heddaya and Smith fail to disclose.

As stated above, Heddaya and Smith in view of Ganguly fail to disclose the claimed limitations including “wherein the act of prefabricating the first page comprises querying a database to obtain cached data, processing the data received from the database, and packaging information associated with the data in a prescribed format.” Eichstaedt, Reiche, Lapstun, Birnbaum, Genty and Breslau are cited by the Office Action to show other limitations of the claims.

As such, Applicants respectfully submit that Eichstaedt, Reiche, Lapstun, Birnbaum, Genty and Breslau also do not teach or suggest “wherein the act of prefabricating the first page comprises querying a database to obtain cached data, processing the data received from the database, and packaging information associated with the data in a prescribed format” and thus fail to cure the deficiency of Heddaya, Smith and Ganguly. Therefore, claim 1 is again believed to be allowable over the cited references.

Claims 49, 58, and 63 disclose similar limitations as does claim 1. Claims 23, 70-71, and 73-74 represent the system and computer program product claims implementing the above method claims and thus are believed to be allowable over the cited references for at least the foregoing reasons. As such, Applicants respectfully submit that claims 1, 23, 49, 58, 70-71, 73-74, and their respective dependent claims are believed to be allowable over the cited references.

III. Heddaya, Smith and Ganguly further in view of Breslau fail to do not teach, or suggest the claimed limitations of claims 95-98.

Claim 95 and similarly claim 97 recites “wherein the packaged information comprises a page request block (PRB).” The Office Action states that it would have been obvious to combine Breslau with Haddaya, since it would have allowed for more efficient transmission of packaged data. Applicants respectfully disagree.

The Office Action has not identified a reason why a person of ordinary skill in the art would have combined the prior art elements in the manner claimed. Instead the Office Action

merely stated a conclusion of the combination. In particular, the Office Action merely states that the combination will allow for more efficient transmission and cited to Breslau: column 10, line 62 to column 11, line 11. The cited section discloses the invention of Breslau provides new functionality and increased efficiency in software transmission techniques. It does not suggest that using a PRB will allow for more efficient transmission than the transmission techniques of Haddaya. Moreover, Breslau and Haddaya do not provide any reason why it is desirable to include the PRB of Breslau in the invention of Haddaya. Moreover, the Office Action failed to point out how this combination will be performed that will result in the more efficient transmission. There is no reason to even conclude that using PRB with Haddaya will result in more efficient transmission. Therefore, the Office Action failed to provide a prima facie case for the §103 rejection. Thus, the rejection should be withdrawn.

Claim 96 and similarly claim 98 recites "wherein the PRB identifies at least one of a depth level, a prioritization weight, and an average page generation time." The Office Action merely stated that it is inherent that the PRB includes the depth level. Applicants respectfully disagree. As stated in MPEP 2112:

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted) (The claims were drawn to a disposable diaper having three fastening elements. The reference disclosed two fastening elements that could perform the same function as the three fastening elements in the claims. The court construed the claims to require three separate elements and held that the reference did not disclose a separate third fastening element, either expressly or inherently.). >Also, "[a]n invitation to investigate is not an inherent disclosure" where a prior art reference "discloses no more than a broad genus of potential applications of its discoveries." *Metabolite Labs., Inc. v. Lab. Corp. of Am. Holdings*, 370 F.3d

1354, 1367, 71 USPQ2d 1081, 1091 (Fed. Cir. 2004) (explaining that "[a] prior art reference that discloses a genus still does not inherently disclose all species within that broad category" but must be examined to see if a disclosure of the claimed species has been made or whether the prior art reference merely invites further experimentation to find the species.<

The Office Action asserts that it is inherent that when the source computer and target computer have corresponding allocated virtual memory spaces for transferring the page data, the depth level of the virtual memory space is required to be known in order for the transfer to properly occur. Even if this analysis is true, it is not necessary that the depth level be transmitted in a PRB. Depth level information may be transmitted by other blocks, packets, carrier waves or many other methods. Because the claim recites that the PRB identifies a depth level and the PRB does not have to identify a depth level, it is not inherent that the PRB includes a depth level as claimed.

Therefore, Applicants respectfully request that the §103 rejection be withdrawn.

CONCLUSION

Based on the foregoing, all remaining claims are in condition for allowance, which is respectfully requested. If the Examiner has any questions or comments regarding this response, the Examiner is respectfully requested to contact the undersigned at the number listed below.

To the extent that any arguments and disclaimers were presented to distinguish prior art, or for other reasons substantially related to patentability, during the prosecution of any and all parent and related application(s)/patent(s), Applicant(s) hereby explicitly retracts and rescinds any and all such arguments and disclaimers, and respectfully requests that the Examiner re-visit the prior art that such arguments and disclaimers were made to avoid.

The Commissioner is authorized to charge any fees due in connection with the filing of this document to Bingham McCutchen's Deposit Account No. **50-4047**, referencing billing number **7011452001**. The Commissioner is authorized to credit any overpayment or to charge any underpayment to Bingham McCutchen's Deposit Account No. **50-4047**, referencing billing number **7011452001**.

Respectfully submitted,

Dated: March 25, 2008

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